



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB2265

Introduced 1/27/2016, by Sen. William R. Haine

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.7

Amends the Illinois Vehicle Code. Provides that daily storage charges for impounded vehicles shall not begin to accrue until 5 days after the vehicle is towed and shall not exceed the maximum daily storage rate authorized by the Illinois Commerce Commission. Provides that at the time a vehicle is towed or within 5 days thereafter, the county or municipality shall notify by certified mail the lienholder of record, lessor, and the owner, lessee, or person identifying himself or herself as the owner or lessee of the vehicle, or any person who is found to be in control of the vehicle at the time of the alleged offense, of the fact of the seizure, and of the vehicle owner's or lessee's right to an administrative hearing. Provides that a lienholder or lessor shall be entitled to take possession of an impounded vehicle, and defer payment of any applicable administrative fees, upon submission of certain documents and fees to the municipality or its designated agent. Provides that upon a request to obtain possession of an impounded vehicle, a municipality or its agent shall provide a lienholder or lessor an opportunity to view the vehicle and provide a statement in writing setting forth the amount of the applicable administrative, towing, and storage fees. Makes conforming changes.

LRB099 18423 AXK 42799 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing  
5 Section 11-208.7 as follows:

6 (625 ILCS 5/11-208.7)

7 Sec. 11-208.7. Administrative fees and procedures for  
8 impounding vehicles for specified violations.

9 (a) Any county or municipality may, consistent with this  
10 Section, provide by ordinance procedures for the release of  
11 properly impounded vehicles and for the imposition of a  
12 reasonable administrative fee related to its administrative  
13 and processing costs associated with the investigation,  
14 arrest, and detention of an offender, or the removal,  
15 impoundment, storage, and release of the vehicle. The  
16 administrative fee imposed by the county or municipality may be  
17 in addition to any fees charged for the towing and storage of  
18 an impounded vehicle. The administrative fee shall be waived by  
19 the county or municipality upon verifiable proof that the  
20 vehicle was stolen at the time the vehicle was impounded.

21 (b) Any ordinance establishing procedures for the release  
22 of properly impounded vehicles under this Section may impose  
23 fees for the following violations:

1           (1) operation or use of a motor vehicle in the  
2 commission of, or in the attempt to commit, an offense for  
3 which a motor vehicle may be seized and forfeited pursuant  
4 to Section 36-1 of the Criminal Code of 2012; or

5           (2) driving under the influence of alcohol, another  
6 drug or drugs, an intoxicating compound or compounds, or  
7 any combination thereof, in violation of Section 11-501 of  
8 this Code; or

9           (3) operation or use of a motor vehicle in the  
10 commission of, or in the attempt to commit, a felony or in  
11 violation of the Cannabis Control Act; or

12           (4) operation or use of a motor vehicle in the  
13 commission of, or in the attempt to commit, an offense in  
14 violation of the Illinois Controlled Substances Act; or

15           (5) operation or use of a motor vehicle in the  
16 commission of, or in the attempt to commit, an offense in  
17 violation of Section 24-1, 24-1.5, or 24-3.1 of the  
18 Criminal Code of 1961 or the Criminal Code of 2012; or

19           (6) driving while a driver's license, permit, or  
20 privilege to operate a motor vehicle is suspended or  
21 revoked pursuant to Section 6-303 of this Code; except that  
22 vehicles shall not be subjected to seizure or impoundment  
23 if the suspension is for an unpaid citation (parking or  
24 moving) or due to failure to comply with emission testing;  
25 or

26           (7) operation or use of a motor vehicle while

1           soliciting, possessing, or attempting to solicit or  
2           possess cannabis or a controlled substance, as defined by  
3           the Cannabis Control Act or the Illinois Controlled  
4           Substances Act; or

5           (8) operation or use of a motor vehicle with an expired  
6           driver's license, in violation of Section 6-101 of this  
7           Code, if the period of expiration is greater than one year;  
8           or

9           (9) operation or use of a motor vehicle without ever  
10          having been issued a driver's license or permit, in  
11          violation of Section 6-101 of this Code, or operating a  
12          motor vehicle without ever having been issued a driver's  
13          license or permit due to a person's age; or

14          (10) operation or use of a motor vehicle by a person  
15          against whom a warrant has been issued by a circuit clerk  
16          in Illinois for failing to answer charges that the driver  
17          violated Section 6-101, 6-303, or 11-501 of this Code; or

18          (11) operation or use of a motor vehicle in the  
19          commission of, or in the attempt to commit, an offense in  
20          violation of Article 16 or 16A of the Criminal Code of 1961  
21          or the Criminal Code of 2012; or

22          (12) operation or use of a motor vehicle in the  
23          commission of, or in the attempt to commit, any other  
24          misdemeanor or felony offense in violation of the Criminal  
25          Code of 1961 or the Criminal Code of 2012, when so provided  
26          by local ordinance; or

1 (13) operation or use of a motor vehicle in violation  
2 of Section 11-503 of this Code:

3 (A) while the vehicle is part of a funeral  
4 procession; or

5 (B) in a manner that interferes with a funeral  
6 procession.

7 (c) The following shall apply to any fees imposed for  
8 administrative and processing costs pursuant to subsection  
9 (b):

10 (1) All administrative fees and towing and storage  
11 charges shall be imposed on the registered owner of the  
12 motor vehicle or the agents of that owner.

13 (2) The fees shall be in addition to (i) any other  
14 penalties that may be assessed by a court of law for the  
15 underlying violations; and (ii) any towing or storage fees,  
16 or both, charged by the towing company.

17 (3) The fees shall be uniform for all similarly  
18 situated vehicles.

19 (4) The fees shall be collected by and paid to the  
20 county or municipality imposing the fees.

21 (5) The towing or storage fees, or both, shall be  
22 collected by and paid to the person, firm, or entity that  
23 tows and stores the impounded vehicle.

24 (6) Daily storage charges shall not begin to accrue  
25 until 5 days after the vehicle is towed. The charges shall  
26 not exceed the maximum daily storage rate authorized by the

1 Illinois Commerce Commission under Chapter 18a of this  
2 Code.

3 (d) Any ordinance establishing procedures for the release  
4 of properly impounded vehicles under this Section shall provide  
5 for an opportunity for a hearing, as provided in subdivision  
6 (b) (4) of Section 11-208.3 of this Code, and for the release of  
7 the vehicle to the owner of record, lessee, or a lienholder of  
8 record, including a lessor of record, upon payment of all  
9 administrative fees and towing and storage fees, subject to the  
10 provisions of subsection (j).

11 (e) Any ordinance establishing procedures for the  
12 impoundment and release of vehicles under this Section shall  
13 include the following provisions concerning notice of  
14 impoundment:

15 (1) Whenever a police officer has cause to believe that  
16 a motor vehicle is subject to impoundment, the officer  
17 shall provide for the towing of the vehicle to a facility  
18 authorized by the county or municipality.

19 (2) At the time the vehicle is towed or within 5 days  
20 thereafter, the county or municipality shall notify by  
21 certified mail, with return receipt requested, the  
22 lienholder of record, lessor, and ~~or make a reasonable~~  
23 ~~attempt to notify~~ the owner, lessee, or person identifying  
24 himself or herself as the owner or lessee of the vehicle,  
25 or any person who is found to be in control of the vehicle  
26 at the time of the alleged offense, of the fact of the

1 seizure, and of the vehicle owner's or lessee's right to an  
2 administrative hearing.

3 (3) The county or municipality shall also provide  
4 notice that the motor vehicle will remain impounded pending  
5 the completion of an administrative hearing, unless the  
6 owner or lessee of the vehicle or a lienholder posts with  
7 the county or municipality a bond equal to the  
8 administrative fee as provided by ordinance and pays for  
9 all towing and storage charges, subject to the provisions  
10 of subsection (j).

11 (f) Any ordinance establishing procedures for the  
12 impoundment and release of vehicles under this Section shall  
13 include a provision providing that the registered owner or  
14 lessee of the vehicle and any lienholder of record shall be  
15 provided with a notice of hearing. The notice shall:

16 (1) be served upon the owner, lessee, and any  
17 lienholder of record either by personal service or by first  
18 class mail to the interested party's address as registered  
19 with the Secretary of State;

20 (2) be served upon interested parties within 10 days  
21 after a vehicle is impounded by the municipality; and

22 (3) contain the date, time, and location of the  
23 administrative hearing. An initial hearing shall be  
24 scheduled and convened no later than 45 days after the date  
25 of the mailing of the notice of hearing.

26 (g) In addition to the requirements contained in

1 subdivision (b) (4) of Section 11-208.3 of this Code relating to  
2 administrative hearings, any ordinance providing for the  
3 impoundment and release of vehicles under this Section shall  
4 include the following requirements concerning administrative  
5 hearings:

6 (1) administrative hearings shall be conducted by a  
7 hearing officer who is an attorney licensed to practice law  
8 in this State for a minimum of 3 years;

9 (2) at the conclusion of the administrative hearing,  
10 the hearing officer shall issue a written decision either  
11 sustaining or overruling the vehicle impoundment;

12 (3) if the basis for the vehicle impoundment is  
13 sustained by the administrative hearing officer, any  
14 administrative fee posted to secure the release of the  
15 vehicle shall be forfeited to the county or municipality;

16 (4) all final decisions of the administrative hearing  
17 officer shall be subject to review under the provisions of  
18 the Administrative Review Law, unless the county or  
19 municipality allows in the enabling ordinance for direct  
20 appeal to the circuit court having jurisdiction over the  
21 county or municipality; and

22 (5) unless the administrative hearing officer  
23 overturns the basis for the vehicle impoundment, no vehicle  
24 shall be released to the owner, lessee, or lienholder of  
25 record until all administrative fees and towing and storage  
26 charges are paid, subject to the provisions of subsection

1       (j).

2       (h) Vehicles not retrieved from the towing facility or  
3 storage facility within 35 days after the administrative  
4 hearing officer issues a written decision shall be deemed  
5 abandoned and disposed of in accordance with the provisions of  
6 Article II of Chapter 4 of this Code.

7       (i) Unless stayed by a court of competent jurisdiction, any  
8 fine, penalty, or administrative fee imposed under this Section  
9 which remains unpaid in whole or in part after the expiration  
10 of the deadline for seeking judicial review under the  
11 Administrative Review Law may be enforced in the same manner as  
12 a judgment entered by a court of competent jurisdiction.

13       (j) Notwithstanding any other provision of this Section to  
14 the contrary, a lienholder or lessor shall be entitled to take  
15 possession of a vehicle impounded under any ordinance  
16 authorized by this Section, and defer payment of any applicable  
17 administrative fees, upon submission of the following to the  
18 municipality or its designated agent:

19       (1) a copy of the certificate of title or other  
20 competent evidence to demonstrate the filing of the lien or  
21 lessor's ownership of the vehicle with the Secretary of  
22 State or other applicable governmental entity, certified  
23 as a true and correct copy of the document under notary  
24 seal;

25       (2) a copy of the installment sales, loan, or lease  
26 agreement related to the vehicle which shall be certified

1 as a true and correct copy of the document under notary  
2 seal;

3 (3) a sworn statement that the owner, purchaser, or  
4 lessee of the vehicle is in default, and that the  
5 lienholder or lessor has a right under the agreement to  
6 repossess or otherwise foreclose on its lien and that it is  
7 repossessing and foreclosing on its lien or intends to do  
8 so;

9 (4) a notarized agreement to indemnify and hold  
10 harmless the municipality and its agents for the release of  
11 the vehicle to the lienholder or lessor;

12 (5) a written agreement of the lienholder that it shall  
13 conditionally pay to the municipality a portion or all of  
14 the applicable administrative fees, under this Section, to  
15 the extent of any surplus funds received by the lienholder  
16 from the repossession sale of the vehicle under the Uniform  
17 Commercial Code or the Motor Vehicle Leasing Act. The  
18 amount of the surplus shall be as defined under Section  
19 9-615 of the Uniform Commercial Code. The agreement shall  
20 provide that if the repossession sale does not yield enough  
21 surplus to pay the full amount owed to the municipality,  
22 the lienholder shall pay the municipality as much as is  
23 available from the surplus, if any, and the lienholder  
24 shall not have any further liability to the municipality  
25 for the amount owed. The agreement shall further provide  
26 that if the lienholder or lessor allows the owner,

1 purchaser, or lessee to redeem or reinstate the vehicle or  
2 agreement and retake possession of the vehicle, and the  
3 vehicle is again towed and impounded, the provisions of  
4 this subsection (j) shall not apply; and

5 (6) payment of the authorized towing and storage fees  
6 charged by the person, firm, or entity that tows and stores  
7 the impounded vehicle, and the cost of certified mail sent  
8 as required under this Section, to the extent the  
9 lienholder or lessor was given notice, as provided by this  
10 Section.

11 (k) Upon the request of a lienholder or lessor to obtain  
12 possession of a vehicle impounded under any ordinance  
13 authorized by this Section, the municipality or its agent shall  
14 provide to the lienholder or lessor an opportunity to view the  
15 vehicle and provide a statement in writing setting forth the  
16 amount of the applicable administrative, towing, and storage  
17 fees as authorized by this Section.

18 (Source: P.A. 97-109, eff. 1-1-12; 97-1150, eff. 1-25-13;  
19 98-518, eff. 8-22-13; 98-734, eff. 1-1-15; 98-756, eff.  
20 7-16-14.)